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## **Return to Zero Tolerance Post-Parkland Results in Surge in Arrests for Texas Students, Unnecessarily Pushing Children into Justice System**

*Younger Students and Black Students Overrepresented in Referrals for “Terroristic Threat” and “Threat to Exhibit Firearms”*

AUSTIN, Texas — Students are being unnecessarily arrested and funneled into the juvenile justice system, causing lifelong damages to young people, while schools fail to distinguish between actual safety threats and ordinary child behavior.

Texas has seen a 156 percent increase in referrals to its juvenile probation departments for terroristic threat and a 600 percent increase in referrals for exhibition of firearms in the wake of the Parkland and Santa Fe tragedies, comparing January – May 2018 with the same time period last year. Both offenses can be charged as felonies. Sixty-six percent of the exhibition of firearms referrals accounted for threatening to exhibit a weapon, not actual possession.

The findings were documented in a new report by advocacy organizations Texas Appleseed, Disability Rights Texas, the Earl Carl Institute and Children's Defense Fund–Texas — [Collateral Consequences: The Increase in Texas Student Arrests Following the Parkland and Santa Fe Tragedies.](#)

“While it is important for Texas schools to respond to any threat of violence, it is equally important to ensure that the response is not an overreaction that could have a long-lasting, damaging impact on a child’s future,” said Deborah Fowler, Executive Director of Texas Appleseed. “There are research-based alternatives that are more effective for ensuring school safety, and that don’t result in the trauma and poor outcomes associated with an arrest.”

### **Additional Top Findings**

Texas Appleseed obtained data from the Texas Juvenile Justice Department for referrals to juvenile probation for “terroristic threat” or “exhibition, use, or threat of exhibition or use of firearms” for 2016, 2017, and January through May of 2018 (the most current data available at the time of the request).

- **Overall:** Notably, there were no referrals for threatening to use a firearm in all of 2016 and only 5 referrals in 2017, but there were 170 referrals from January through May of 2018.
- **By Age:** Most referrals for both offenses are for 13- to 14-year-olds, but the increase in referrals was the largest for 10- to 13-year-olds. In January through May of 2018, there was a 69 percent increase in referrals for terroristic threat and a 762 percent increase in referrals for exhibition of firearms for 10- to 13-year-olds when compared to all of 2017.
- **By Race:** Black students are overrepresented in referrals for these offenses, representing 24 percent of referrals for terroristic threat and 31 percent of referrals for exhibition of firearms, but only 13 percent of the student body population. Black students were twice as likely as all other students to be referred to juvenile probation for terroristic threat or exhibition of firearms.
- **By County:** Harris County had the highest number of referrals from a school-based location, accounting for 13 percent of all referrals for terroristic threat from a school-based location.
- **By School District:** Houston ISD had the highest number of referrals from a school-based location, accounting for 5 percent of all referrals for terroristic threat from a school-based location.

Though TJJD is not able to include data related to disability, anecdotal evidence suggests students with disabilities are also overrepresented in arrests. Schools using research-based threat assessments resort to expulsion or arrest in only about 1% of all cases. Based on Texas data, this could mean roughly 15 law enforcement referrals rather than the more than 1,400 already made in 2018.

“We know that arrests and justice system involvement impact students in negative ways,” said Patrick Bresette of Children's Defense Fund–Texas. “Not only do their underlying needs go unaddressed, but young people who are pushed out of school are more likely to drop out, have future contact with the justice system, and experience challenges finding employment. Texas, with bipartisan support, has followed the research and moved away from ‘zero tolerance’ because it is clear that this type of approach hurts students and does not improve school safety.”

### **Age-Appropriate Behaviors Mischaracterized**

The four advocacy organizations have seen a number of cases where school districts and police failed to properly assess the situation and took inappropriate steps, arresting and referring students to juvenile probation for behaviors that should have been addressed in other ways. Some young students have imagined they have pretend guns and are shooting aliens or other fake creatures, as was the case of a 12-year-old boy with disabilities who had no weapon. A blind student who was being bullied made a flippant remark to get his aggressors to leave him alone in the moment. In another case, a 17-year-old student was arrested and taken to jail for pulling the fire alarm at school. An 11-year-old student with disabilities who is taught in a self-contained classroom threatened to “Tase” the teachers who restrained him during an emotional meltdown.

“Disability Rights Texas has received an explosion of cases involving children with significant disabilities being charged with felonies for verbal threats,” said Dustin Rynders, Supervising Attorney, Education Team, with Disability Rights Texas. “In most cases, the children never received appropriate interventions through special education, and no one stopped to assess seriousness of threat or connect the child to appropriate services. Students with disabilities and their peers deserve better.”

## **Importance of Threat Assessments, Other Alternatives**

Advocacy organizations, as well as many parents and educators, urge the use of research-based threat assessment models coupled with research-based alternatives. In fact, school-based threat assessments are included as a recommendation in Governor Abbott's *School and Firearm Safety Action Plan*. It allows schools to determine when a student's behavior necessitates law enforcement involvement and when it is instead more appropriately managed by referrals to counseling or other services. Research-based threat assessment models complement other research-based alternatives that improve school safety, such as Positive Behavior Interventions and Supports, Social-Emotional Learning, and Restorative Discipline.

"The criminalization of typical in-school behaviors perpetuates the school-to-prison pipeline that already disproportionately impacts Black children," said Morgan Owens with the Earl Carl Institute. "We must ask ourselves why Black children are overrepresented in referrals given that past school shooters have often been White males. If we are truly going to protect our school communities, we need to use an empirically sound method of assessing threat — one that mitigates the impact of human bias."

## **Policy Recommendations**

Texas schools have an opportunity to employ research-based approaches that address safety concerns, avoiding potential harm to students.

- In 2019, the Texas Legislature should provide funding for research-based, multi-tiered approaches to school safety that include a threat assessment model, and require school districts to indicate in their safety plans which research-based approaches their schools are utilizing.
- Texas school districts should prioritize a tiered, research-based approach to school safety that includes a threat assessment team model.
- Texas schools should take advantage of the free training being provided by the Texas School Safety Center this summer.

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## **About Texas Appleseed**

Texas Appleseed is a public interest justice center that works to change unjust laws and policies that prevent Texans from realizing their full potential. Our nonprofit conducts data-driven research that uncovers inequity in laws and policies and identifies solutions for lasting, concrete change. For more information, visit [www.TexasAppleseed.org](http://www.TexasAppleseed.org).

## **About Disability Rights Texas**

Disability Rights Texas (DRTx) is the federally designated legal protection and advocacy agency for people with disabilities in Texas. Its mission is to help people with disabilities understand and exercise their rights under the law, ensuring their full and equal participation in society. Find out more at [www.DRTx.org](http://www.DRTx.org).

## **About the Earl Carl Institute**

The mission of the Institute is to identify, address, and offer solutions to legal and social problems that affect traditionally urban and disenfranchised communities. The Institute, through interdisciplinary scholarship and advocacy, aims to develop the leadership, research, and advocacy skills of law students to encourage public service and to enable the students to effectively address problems of underserved communities. Visit [www.earlcarlinstitute.org](http://www.earlcarlinstitute.org) for more news, events, and donor information.

## **About the Children's Defense Fund–Texas**

The Children's Defense Fund Leave No Child Behind® mission is to ensure every child a Healthy Start, a Head Start, a Fair Start, a Safe Start and a Moral Start in life and successful passage to adulthood with the help of caring families and communities. Visit [www.cdftexas.org](http://www.cdftexas.org).